

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION No. 04-11492-REK

MARIO LACY,
Plaintiff,

v.

CITY OF BOSTON, WILLIAM
FEENEY, KENNETH HEARNS and
JUAN J. SEOANE,
Defendants.

**DEFENDANTS' RULE 12(F) MOTION TO STRIKE PARAGRAPH 33 OF
PLAINTIFF'S COMPLAINT.**

NOW COME the Defendants in the above-entitled action,
pursuant to Fed.R.Civ.P. 12(f), who move this Honorable Court to
strike Paragraph Thirty-Three from the Plaintiff's Complaint as
redundant, impertinent and scandalous.

As grounds therefore, the Defendants state that:

1. Fed.R.Civ.P. 12(f) permits this Honorable Court to order
stricken from the Plaintiff's Complaint any "redundant,
immaterial, impertinent or scandalous matter."
2. Paragraph Thirty-Three of the Plaintiff's Complaint reads
in its entirety, "The Boston Police Drug Units prey on and
rape the most vulnerable in our society--those addicted to
drugs."
3. Paragraph Thirty-Three is redundant in that it adds
nothing to the Plaintiff's claims:

- a. The allegation that the Plaintiff was raped is made elsewhere in the Complaint (at paragraphs Eighteen, Twenty-Two, Twenty-Seven);
 - b. The allegation that Defendant City of Boston has engaged in unconstitutional customs, policies and practices is sufficiently pleaded elsewhere in the Complaint (at paragraphs 40-42 and following);
 - c. Paragraph Thirty-Two makes essentially the same allegation in less sensational and inflammatory language ("...there is still a custom within the drug units of the Boston Police of illegal strip searches even in public domains, including invasive anal cavity searches in spite of a formal policy forbidding them").
4. Paragraph Thirty-Three is also impertinent, scandalous and highly prejudicial to the Defendants:
- a. Neither the Boston Police Department's Drug Control Unit, nor any individual officer assigned to same, has ever been subjected to a finding by any court or agency that it had committed a rape;
 - b. The implication that the Boston Police's Drug Control Unit, and/or its individual officers, routinely victimize vulnerable citizens is both outrageous and inappropriate;

c. Paragraph Thirty-Three serves only to harass and annoy the Defendants, and its inclusion in the Complaint is highly prejudicial.

WHEREFORE, the Defendants ask that this Honorable Court order Paragraph Thirty-Three of the Complaint stricken.

Respectfully submitted,
DEFENDANTS, CITY OF BOSTON, WILLIAM FEENEY,
KENNETH HEARNS
and JUAN J. SEOANE

Merita A. Hopkins
Corporation Counsel

By their attorneys:

/s/ James M. Chernetsky

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